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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/897,295	06/29/2001	William J. Boyle	ACS-56001 (26361)	1994
24201	7590	03/25/2009	EXAMINER	
FULWIDER PATTON LLP HOWARD HUGHES CENTER 6060 CENTER DRIVE, TENTH FLOOR LOS ANGELES, CA 90045			YU, JUSTINE ROMANG	
ART UNIT	PAPER NUMBER			
			3771	
MAIL DATE	DELIVERY MODE			
			03/25/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte WILLIAM J. BOYLE, ANDY E. DENISON,  
BENJAMIN C. HUTER, SCOTT J. HUTER, JOHN E. PAPP,  
CHARLES R. PETERSON, and KENT C.B. STALKER

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Appeal No. 2009-0173  
Application No. 09/897,295  
Technology Center 3700

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Mailed: March 25, 2009

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Before DALE M. SHAW, *Chief Appeals Administrator.*

NOTIFICATION OF NON-COMPLIANT REQUEST  
FOR ORAL HEARING

A review of the appeal proceedings reveals that the appellants filed an Appeal Brief on June 14, 2007, and on page 2 of the Appeal Brief,

appellants included a section requesting an oral hearing in connection with the appeal. Note that 37 C.F.R. § 41.47(b) states:

If appellant desires an oral hearing, appellant must file, as a separate paper captioned "REQUEST FOR ORAL HEARING," a written request for such hearing accompanied by the fee set forth in § 41.20(b)(3) within two months from the date of the examiner's answer or supplemental examiner's answer.

Appellants' request for oral hearing is not in compliance with 37 C.F.R. § 41.47(b) because it was not filed as a separate paper;<sup>1</sup> therefore, the request for an oral hearing cannot be granted.

If appellants still desire an oral hearing, a petition under 37 C.F.R. § 41.3 must be filed within two weeks of the mailing date of this notification. Such a petition must include:

- (1) a request to suspend the separate paper requirement of 37 C.F.R. § 41.47(b);
- (2) a showing of facts to establish that an extraordinary situation exists and that justice requires that the separate paper requirement of 37 C.F.R. § 41.47(b) be suspended or waived; and

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<sup>1</sup> Note USPTO form PTO/SB/32 (last updated 2008/10) entitled "Request for Oral Hearing before the Board of Patent Appeals and Interferences" is available on the USPTO website.

(3) the petition fee set forth in 37 C.F.R. § 41.20(a).

This two-week time period for filing a petition under 37 C.F.R. § 41.3 is not extendable under 37 C.F.R. § 1.136(a). The failure to timely file a petition under 37 C.F.R. § 41.3 will result in the appeal being decided without an oral hearing (i.e., on brief).

If appellants decide not to file a petition under 37 C.F.R. § 41.3, the Board of Patent Appeals and Interferences would appreciate written notification to that effect so that a decision on the appeal may be expedited.

If there are any questions pertaining to this Notification, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DMS/ewh

FULWIDER PATTON LLP  
HOWARD HUGHES CENTER  
6060 CENTER DRIVE, TENTH FLOOR  
LOS ANGELES, CA 90045